



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

TREATMENT OF ENEMY ALIENS

MEASURES IN RESPECT TO PERSONAL LIBERTY

(Being Part XIV of Some Questions of International Law in the European War, continued from previous numbers of the JOURNAL.)

WRITERS on international law are now in substantial agreement that a belligerent ought not to detain enemy subjects, confiscate their property, or subject them to any disabilities, further than such as the protection of the national security and defense may require. Vattel, in 1758, appears to have been the first writer to adopt the view that had come to be generally held by publicists at the time the present war broke out. "The sovereign," he said, "who declares war has not the right to detain the subjects of the enemy who are found within his state, nor their effects. They have come to his country in public faith; in permitting them to enter and live in the territory, he has tacitly promised them all liberty and surety for their return. A suitable time should be given them to withdraw with their goods; and if they stay beyond the time prescribed, it is lawful that they should be treated as enemies, though as disarmed enemies."¹ Alexander Hamilton, in defending the Jay Treaty of 1794, declared that the right of holding property in a country always implies a duty on the part of its government to protect that property and to secure to the owner full enjoyment of it. "Whenever, therefore," he added, "a government grants permission to foreigners to acquire property within its territories, or to bring and deposit it there, it tacitly promises protection and security — the property of a foreigner placed in another country, by permission of its laws, may be justly regarded as a deposit of which the society is the trustee."² Westlake, in 1907, adverting to the nu-

¹ *Droit des Gens*, Liv. III, Ch. IV, sec. 63. Vattel adds that in his time it was the practice to allow enemy subjects a period in which to withdraw with their effects.

² Letters of Camillus, No. XIX.

merous treaty stipulations on the subject, remarked that they might be deemed to amount to "a general agreement, on the part of governments, that modern international law forbids making prisoners the persons of enemy subjects in the territory at the outbreak of war, or, saving the right of expulsion in case of apprehended danger to the state, refusing them the right of continuous residence during good behavior."³ Referring to the right of expulsion, Ullmann, a respectable German authority, remarks that expulsion can be resorted to against the subjects of the enemy state, but only after a suitable delay has been offered in order to enable those affected to wind up their affairs.⁴

Owing, however, to the recent introduction of compulsory military service on the continent of Europe, there has been a growing disposition to recognize the right of belligerents to detain males liable to such service, in order to prevent them from returning home and enlisting in the enemy's army. On account of their residence in the enemy country and the opportunity thus afforded of acquiring more or less familiarity with its topography and the location of military forts, arsenals, munitions depots, the extent of its resources, and the like, their service would be of special value to their own country.⁵ We find, therefore, in the sixth edition of Hall, who, in an earlier edition of his work, had condemned the right of detention and had characterized the expulsion of the Germans from the Seine in 1870 as "harsh," a statement by Atlay that now, since "the liability of the whole male population to military service has become the almost universal rule on the continent of Europe," the rule in respect to detention "has assumed a new aspect."⁶ The discussions at the Second Hague Conference make it quite clear that it was considered inadmissible to imprison enemy subjects at the outbreak of war, but it should be remarked that those discussions did not touch upon the question of the treatment of such persons who were reservists and who, if allowed to depart, would join the forces of the

³ International Law, Part II, p. 42.

⁴ *Völkerrecht* (1908), p. 474.

⁵ Cf. Bonfils, sec. 1053.

⁶ International Law, 6th ed., p. 386. Other writers who defend the right to detain such persons are Calvo, *Droit Int. Pub.*, Vol. IV, p. 54; Bonfils, *Manuel*, p. 590; Lawrence, *op. cit.*, p. 390; Twiss, *Law of Nations*, Vol. II, sec. 50; Rivier, *op. cit.*, Vol. II, p. 230, and Liszt, *Das Völkerrecht*, sec. 39.

enemy.⁷ While, however, as stated above, there is now a good deal of authority for the view that it is permissible to detain males of military age who are liable to service, there are writers who do not sympathize with the exception which it has been proposed to make to the general rule.⁸

When the present war broke out, the status of enemy aliens had not been dealt with by any of the great international conventions, further than the much controverted Article 23 *h* of the Hague Convention of 1907 concerning the laws and customs of war on land, which, according to some authorities, makes it obligatory upon belligerents to allow such persons access to their courts. The treatment which must be accorded to them, therefore, rests upon the customary law of nations and particular treaty stipulations. The departures which have been made from custom, practice, and the opinions of the text writers, as summarized above, will appear from the following pages.

THE ENEMY ALIEN PROBLEM OF THE PRESENT WAR

If the practice during the present war has been less liberal than that of recent wars, it may be explained in part by the extreme bitterness of passion which has seemed to dominate all the peoples involved, and in part by the changed conditions resulting from the presence of unexampled numbers of enemy aliens, many of whom were reservists, in the territories of the various belligerents at the outbreak of the war. This latter circumstance caused the problem of dealing with such persons to assume an importance never before known in any previous war, and greatly increased the difficulty of handling it with due regard to both the national defense and the heretofore recognized rights of the enemy alien population.

At the outbreak of hostilities there were more than 50,000 German subjects residing in the United Kingdom,⁹ besides about 8000 natural-

⁷ Compare Oppenheim in Roxburgh, *The Prisoners of War* Information Bureau in London, p. vii.

⁸ Compare Sir Ernest Satow in the *Publications of the Grotius Society*, Vol. II, p. 7; and Phillipson, *International Law and the Great War*, p. 30.

⁹ Sir Edward Grey to Mr. Page, Nov. 9, 1914, *House of Commons Sess. Papers*, Misc. No. 8 (1915), [Cd. 7857], p. 15.

ized British subjects of German origin, the latter of whom English public opinion scarcely differentiated from the former class. Besides, there was a considerable number of Austrians, Hungarians, and Ottoman subjects. In France the enemy alien population was much larger. According to Professor Valéry, of Montpellier, the total number of foreigners in that country was approximately one and a half million, a large number of whom were enemy subjects.¹⁰ The enemy alien population of Paris was especially large, being much greater than that of any other European capital.¹¹ The problem was less serious in Germany, where there were only about 5300 British subjects in the country. The number of persons of French nationality residing there was somewhat larger, although greatly inferior to the number of Germans in France. The outbreak of the war between Italy and Germany found about 30,000 Italian subjects in Germany and about 50,000 Germans in Italy. There were also large numbers of Germans and a considerable number of Austro-Hungarians in Belgium.

The situation in the United States was, by reason of the very large number of German subjects in the country, quite different from that in the countries of Europe, although, owing to the geographical remoteness of the United States from the theater of hostilities and its separation from the enemy country by the Atlantic Ocean, the danger from the presence of so large an enemy population was less serious.¹² On the other hand, the number of American citizens who remained in Germany after the outbreak of the war was very small, the number being less than one thousand.¹³ In every belligerent country large

¹⁰ *Revue Générale de Droit Int. Pub.*, 1916, p. 353. Compare the returns of the French census of 1911, *Bulletin du Ministère du Travail*, Jan.-Feb., 1916, pp. 55 ff., and June, 1916, pp. 234 ff.

¹¹ According to estimates published in Clunet's *Journal de Droit International* (1916, p. 157), there were in Paris at the outbreak of the war almost 400,000 foreigners.

¹² The total number of aliens registered in the United States on June 5, 1917, in pursuance of the terms of the draft law, was 1,239,179. Of these 111,933 were German subjects (*Cong. Record*, July 13, 1917, p. 5554). This number, of course, embraced only males between the ages of 21 and 30 years.

¹³ According to a census taken by the American Association of Commerce in Berlin, there were approximately 1200 Americans in Germany at the outbreak of war between the two countries. Many of these left shortly after the declaration of war, so that in September, 1917, there were hardly more than 700 American citizens in the Empire. *New York Times*, Sept. 13, 1917.

numbers of the enemy population consisted of persons who had been residents for many years. Many of them had married natives and had families; many were engaged in business or in the practice of professions; and many had acquired large property interests.

The presence of enemy subjects in such large numbers, especially in England and France, constituted a serious problem, the danger of which was accentuated by the fact that a large proportion of such persons were reservists who had had military training and who, if they had been allowed to depart, would have returned home to serve the armed forces of the enemy. The problem of dealing with them justly was further complicated by the existence in both countries, as in others where Germans resided in large numbers, of a highly organized and extensive system of espionage, for the Germans generally have acted in accordance with Treitschke's view that "in the national wars of the present day every honest subject is a spy." Under these circumstances, the countries situated in close proximity to Germany felt that the national security would be dangerously compromised by allowing the enemy alien population the same degree of freedom that had been generally accorded in the more recent wars of the past.

BRITISH POLICY

On the 3d of August, 1914, the day following the outbreak of war between Germany and Great Britain, Parliament passed the Aliens Restriction Act,¹⁴ authorizing the government to impose by Order in Council certain restrictions on aliens residing within the United Kingdom, without distinction between those who were subjects of an enemy state and those who were subjects of friendly Powers. The measures which the government was empowered to take included prohibiting aliens to land or embark in the United Kingdom; their deportation; requiring them to reside in certain designated areas; compelling them to register, and any other measures "which appear necessary or expedient, with a view to the safety of the realm." The Act prescribed appropriate penalties for violation of any Order in Council issued in conformity with the law, and gave the courts summary jurisdiction

¹⁴ Text in Pulling's Manual of Emergency Legislation, pp. 6-8, and in Baty and Morgan, War: its Conduct and Legal Results, pp. 470-2.

of cases involving such violations. The Act further declared that the onus of proving that a person was not an alien should lie upon him, thus reversing the old English rule that the burden of proof rests upon the party charging the disability.¹⁵

On the same day an Order in Council entitled "The Aliens Restriction Order" was issued in pursuance of the authority thus conferred, and it was followed by other supplementary and amendatory orders from time to time, while instructions and directions were frequently issued by the Secretary of State for Home Affairs. Portions of the order applied to all aliens, friendly and enemy alike, but its main purpose was to restrict the liberty of those of enemy nationality only. The order designated certain "approved" places in England, Scotland, and Ireland at which aliens of friendly Powers were permitted to land and from which they were allowed to depart, but enemy aliens were forbidden to land at or depart from such ports without the permission of a secretary of state.

The Secretary of State for Home Affairs was authorized to deport any alien (whether an enemy subject or the subject of a friendly Power) whenever in his judgment it was deemed advisable. Enemy aliens were prohibited without a permit from entering or residing temporarily in certain designated areas, several hundred in number, some of which embraced whole counties and many boroughs, parishes, and districts, especially on the seacoast.¹⁶ Enemy aliens residing anywhere in the United Kingdom, and all aliens, whether friends or enemies, residing in prohibited areas, were required to register with a local registration official, and in case of a contemplated change of residence they were required to furnish the registration officer full particulars in regard to the date of the proposed change and of the place to which it was proposed to remove.¹⁷ No enemy alien was allowed to travel

¹⁵ Bentwich in this JOURNAL for July, 1915 (Vol. 9), p. 644.

¹⁶ Permits to reside in the prohibited areas appear to have been granted rather freely. In December, 1916, 4294 enemy aliens were reported as residing in these areas. *Solicitors Journal and Weekly Reporter*, Dec. 30, 1916, p. 162.

¹⁷ Many complaints were made of the hardships which the registration requirement entailed in particular cases, *e.g.*, in the case of English women married to Germans. One case was reported of an English woman whose German husband had deserted her twenty years before, but who was required to register and report

more than five miles from his registered place of residence without a permit, which was limited to twenty-four hours, except in special circumstances. No enemy alien, without the written permission of the registration officer, was allowed to have in his possession any fire-arms, ammunition, petroleum, signaling apparatus, motor cars, cycles, or boats, air craft, cipher code, telephone installation, military or naval charts, and various other articles. Likewise, the circulation among enemy aliens of any newspapers printed wholly or mainly in the language of an enemy state was forbidden, except with the written permission of a secretary of state. The Secretary of State for Home Affairs was empowered to order any chief officer of police to close any premises used for the purposes of a club and habitually frequented by enemy aliens. Enemy aliens were prohibited from engaging in the business of banking, except with the written permission of a secretary of state, who was authorized to prescribe such conditions and restrictions as he deemed advisable, and no enemy alien who was at the time or had been engaged in such business was allowed to part with any money or securities of such bank.¹⁸ For the purpose of enforcing such orders, constables were authorized to enter, search, or occupy any premises in which the business of banking had been carried on by an enemy alien.

By an Order in Council of January 7, 1915, registration officers were authorized to grant to Turkish subjects belonging to the Greek, Armenian, or Syrian races, or members of any other community well known to be opposed to the Turkish régime, certificates of exemption from any or all of the provisions of the Aliens Restriction Order, except those which applied to alien friends.

To prevent evasion of the restrictions thus imposed by concealing their real identity, enemy aliens were prohibited from changing their names or the names of partnerships or companies of which they were members.

regularly to the police. *Solicitors Journal and Weekly Reporter*, Vol. 61, p. 732. By an Order in Council of Aug. 27, 1916, the Secretary of State was authorized to grant exemptions in special cases. *Ibid.*, Vol. 61, p. 741.

¹⁸ Licenses were granted to certain German banks from time to time in accordance with the provisions of this order.

At the outbreak of the war, the British Government accorded to German subjects a period of seven days during which they might leave, but it does not appear that any considerable number actually got away. Neither Germany nor Austria-Hungary, however, allowed any period of grace, and all male British subjects, regardless of their age or condition, were refused permission to return to their native country.¹⁹ Soon after the outbreak of the war the German Government informed the British Government through the American Ambassador at Berlin that it was prepared to allow British subjects then in Germany to leave, provided the British Government would accord reciprocal treatment to German subjects in Great Britain. In short, the German Government proposed that the British Government should exchange more than 50,000 Germans in England for some 5000 British subjects in Germany. The German population in England was classified as: (a) reservists, who were under duty to render military or naval service; (b) persons detained for military or naval reasons; and (c) noncombatants "not specially detained." Many reports having reached England that British subjects detained in Germany were being badly treated, the British Government gave serious consideration to the German proposal, and on August 31 replied expressing its willingness to permit all German women and children,²⁰ all males under sixteen years of age and over forty-four years, and all persons between those ages who were not under liability for military service in Germany and who would give an undertaking not to take part, directly or indirectly, in the operations of the war, to leave, provided the German Government would reciprocate. On September 15, the German Government replied to the British counter-proposal, offering to accept it in the main, except that it refused to allow the departure of British males of military age who were not under duty of military service in England, even though they were willing to give an undertaking not to take part in the operations of the war. It having in the meantime come to the

¹⁹ Sir Ernest Satow, in an article entitled "The Treatment of Enemy Aliens," published in the Publications of the Grotius Society, Vol. II, p. 8.

²⁰ The British Government stated that in fact it had from the first allowed women and children to leave England, although the German Government had not accorded reciprocity of treatment in respect to women of British nationality.

attention of the British Government that the liability to military service in Germany had been extended to include males up to the fifty-fifth year, the British offer was modified so as to withhold the privilege of departure to males between the ages of sixteen and fifty-five years. The German Government denied that compulsory military service existed for men over forty-four years of age, although it admitted that such persons were serving in the army as volunteers. The British Government took the position, however, that the fact that men up to fifty-five years of age were actually serving in the German army must be taken into consideration in reaching an agreement.

According to a telegram of October 22, 1914, from the American Ambassador at Berlin to the American Ambassador at London, Germany was allowing all British civilians, except men between the ages of seventeen and fifty-five, and also clergymen and physicians of all ages, to leave Germany, and Sir Edward Grey, in a communication to Mr. Page of October 28, informed him that the British Government was according reciprocity of treatment to German civilians belonging to these classes.²¹ But apparently the German Government still refused to allow the departure of males between the ages of seventeen and fifty-five who were willing to give a pledge not to take part in the war, and therefore the British Government was not prepared to release German subjects of this class. In reply to an inquiry from Berlin of November 3, 1914, received through the American Embassy, as to whether the British Government was arresting "wholesale" German subjects over forty-five years of age, Sir Edward Grey stated that no Germans over that age had been arrested. At the same time he asked the American Ambassador to call the attention of the German Government to the fact that there were upwards of 50,000 Germans residing in England, the presence of whom must necessarily be a cause of anxiety to the military authorities, who were charged with taking suitable measures for the defense of the realm. The German Government, on the other hand, he said, had not the same excuse for proceeding

²¹ Correspondence between His Majesty's Government and the United States Ambassador respecting the Release of Interned Civilians, etc., Misc. No. 8 (1915), [Cd. 7857], p. 13.

to a wholesale arrest of British subjects in Germany, since, owing to the small number of them, the scattered condition in which they live, and the different character of the classes to which they belong, they could not, under any circumstances, be regarded as constituting the same danger to Germany that the masses of German subjects in Great Britain constituted to that country.²²

On November 9, 1914, the American Ambassador at London received a telegram from Berlin, announcing that British subjects between seventeen and fifty-five had been interned, except clericals, doctors, and women, and British subjects from colonies or protectorates where Germans were not interned. Germany renewed its offer to release men over forty-five if England would do so. Sir Edward Grey, on November 12, replied, denying that there had been any general arrest of Germans over forty-five years of age, but that only individual suspects had been subjected to such treatment. Steps, he said, were being taken to release and send back to Germany all persons detained who were over fifty-five years of age, except a few suspects. Of the 27,500 male Germans above the age of seventeen in England, only 8,600 had been interned, leaving 18,900 at liberty, and of those interned 600 had been released within the last two or three weeks.²³

The correspondence between the two governments regarding the matter continued throughout the years 1915 and 1916.²⁴ The German Government desired first of all a general release by each belligerent of all civilians without exception held by the other. The British Government took the position that it could not afford to exchange the entire German population resident in Great Britain for the British population in Germany, owing to the very great disproportion in their numbers.

Finally, all hope of reaching an agreement on the basis of the British proposal having passed, the British Government, "from motives of humanity," yielded and agreed to release all German male civilians over forty-five years of age, provided Germany would release all British

²² *Ibid.*, p. 16.

²³ *Ibid.*, p. 24.

²⁴ The additional correspondence is found in two British White Papers, — Misc. No. 35 (1916) and No. 1 (1917) — issued in continuation of the White Papers already cited.

male civilians then held as prisoners. The British Government, however, insisted on a stipulation to the effect that each party to the agreement must have the right to detain for military reasons at least twenty persons who would otherwise be eligible for release. The German Government expressed regret that the British Government could not see its way clear to accept its proposal for the reciprocal release of all civilian prisoners, but nevertheless it agreed to accept the proposal for the release of all males over forty-five years of age as the only means of preventing the failure of the agreement. This agreement was definitely concluded in January, 1917.

According to the London press dispatches, Germany obtained under this agreement the release of about 7000 of her subjects held as interned civilian prisoners in England and the Dominions, whereas Great Britain on her part secured the repatriation of some 600 or 700 British subjects held in Germany.

It is unfortunate that an agreement for the release and repatriation of all interned civilians on both sides was never reached, but the very unequal numbers held by both belligerents made the problem a very difficult one. The British Government was quite aware that in case it released the entire German civilian population in return for the release of the comparatively small number of British subjects held in Germany, the effect would be to strengthen the military power of Germany out of all proportion to the military benefit which Great Britain herself would have derived from the repatriation of her own civilians held in Germany. The British Government can hardly be reproached, therefore, for insisting on a system of exchange on a man for man basis. It would seem, however, that the difficulty might have been obviated by a system of parole under which all civilians held by each belligerent could have been released under a pledge not to reënlist in the army or take part in military operations upon their return home. It was quite apparent, however, that the British Government was not prepared to trust so much to German honor.

An arrangement was early reached providing for the exchange of invalids and other persons who were incapable of performing military service, but Germany hesitated whether it should refuse to release retired military and naval officers who were at German health resorts

at the outbreak of the war.²⁵ After a protracted correspondence an agreement was also reached for the reciprocal exchange of such diplomatic and consular representatives as were detained in the two countries.

An arrangement was early made between the British and Austro-Hungarian Governments by which male subjects under the age of seventeen and over fifty, together with physicians, clergymen, invalids, without regard to age, and of course women and children, were reciprocally released. Misc. No. 35 (1916) [Cd. 8352]. The controversy in regard to the age limit of persons capable of military service, which prevented for many months an agreement between the British and German Governments, did not arise between England and Austria-Hungary. It appears that in other respects the policy of the British Government concerning the treatment of Austro-Hungarian nationals in England was marked by exceptional leniency owing to the liberal treatment by the Austro-Hungarian Government of British subjects in that country.^{25a}

The policy of the British Government in the beginning was to interfere as little as the public safety permitted with the liberty of enemy aliens. Only suspects, those likely to prove dangerous in case they were left at large, and persons likely to become a public charge, were arrested and interned. Naturally, in consequence of the excitement and general confusion, many persons were hastily arrested and sent off to concentration camps on unfounded suspicion, only to be subsequently released.²⁶ According to a statement made in the House of Commons by the Prime Minister in May, 1915, about 19,000 Germans and Austro-Hungarians were then interned in various camps, leaving some 40,000 still at liberty.

There was no thought at first of interning the entire enemy alien population, but in consequence of various acts of the Germans, such as the bombardment of West Hartlepool, Scarborough, and Whitby; the dropping of Zeppelin bombs on undefended towns; the use of

²⁵ Correspondence between His Majesty's Government and the United States Ambassador Respecting the Release of Interned Civilians, etc. Misc. No. 8 (1915), [Cd. 7857], pp. 2-3.

^{25a} Compare Williams, "Treatment of Alien Enemies," *Quarterly Review*, Oct., 1915, p. 425; see also Phillipson, *International Law and the Great War*, p. 88.

²⁶ See the London Weekly *Times* of July 4, 9, and 11, 1915.

asphyxiating gases; the reports of ill-treatment of British prisoners, and the like, public opinion in England was gradually aroused, and it was turned to wrath by the sinking of the *Lusitania* in May, 1915. The growing indignation against the Germans manifested itself in various forms, such as the exclusion of persons of German origin from the commercial exchanges,²⁷ the boycotting of German shops, maltreatment of unoffending individuals, and the like. The sinking of the *Lusitania* caused a wave of indignation to sweep over England which was speedily followed by mob outbreaks in various parts of the United Kingdom and in the overseas Dominions, in which many German houses and shops were wrecked or looted. In the east end of London, especially, the damage done by the rioters was very great. In Liverpool the value of property destroyed was estimated at \$2,000,000. In various other places the losses reported were large. In the town of West Ham the riots lasted for several days and the damage done was estimated at a half million dollars. Mr. McKenna stated in the House of Commons that 257 persons, of whom 107 were police or special constables, were injured in the riots at London. In some communities the rioters made no distinction between unnaturalized Germans and British subjects of German origin,²⁸ but proceeded on the assumption that once a German, always a German. Occasionally also native-born British subjects were made the object of attack through mistake, and instances were reported of the destruction of houses belonging to persons of English, Swiss, and Russian nationality, who bore Teutonic names.

In Victoria, British Columbia, the sinking of the *Lusitania* was followed by an outbreak against German establishments, and the city had to be put under martial law. At Johannesburg a series of violent anti-German demonstrations took place, which culminated in the wrecking, wholly or in part, of some fifty German and Austrian houses and the destruction of their contents. The total damage done was estimated to exceed \$1,000,000. At Cape Town, Port Elizabeth, Pretoria, Maritzburg, Kimberley, Bloemfontein, and other places serious disorders took place and considerable damage was done. The occur-

²⁷ *London Times*, May 11, 1915, p. 10.

²⁸ *Ibid.*, May 13, 1915, p. 9.

rence of these outbreaks was deeply deplored by the great majority of the English people, although, in view of the strong provocation occasioned by the barbarities of the German army and navy, they were regarded as the natural manifestations of an outraged public opinion.

In consequence of the intense anti-German feeling throughout the empire, a widespread popular demand was made for the internment of the entire German population, partly in their own interest, since it was impossible to protect them against mob violence so long as they remained scattered or isolated among the English population, and partly in the interest of the national defense, since they constituted a danger to the realm so long as they were left at large. Popular meetings were held in various places at which addresses were made and resolutions adopted calling on the government to adopt vigorous measures. At a meeting at the Mansion House, called "to formulate a protest by the women of Great Britain and Ireland," a resolution was adopted demanding that steps be taken "to free the country from the menace of the alien enemy in our midst."

On the same day a great public demonstration was held in which thousands of the general public are said to have stood in a drenching rain and cheered speeches calling for the internment of the Germans. The following resolution was then adopted:

Thousands of citizens of London, gathered together at a mass meeting, unanimously protest against any kith and kin of German mutilators, poisoners, and murderers of men, women, and children being any longer allowed to be at large in the English islands, and, fearing riots, fires, and spread of disease germs and poisoned water, hereby unanimously demand that the government take immediate steps to intern or deport all alien enemies, male or female, whatever their nationality, naturalized or otherwise.

Deputations from the Stock Exchange, the Baltic Exchange, Lloyds, and the Corn Exchange, after meeting on the steps of the Royal Exchange, marched to the House of Commons and presented a petition to the Attorney General, which called attention to "the grave danger that exists by allowing alien enemies to remain at large in the country."

The popular demand for wholesale internment of the enemy population was so great that the government was compelled to yield, and

on May 13, 1915, the Prime Minister announced that the government had decided upon a measure of general internment. He said:

At this moment some 40,000 unnaturalized aliens, of whom 24,000 are men, are at large in this country. The government proposes that all adult males of this class should, for their own safety and that of the country, be segregated and interned. If over the military age, they should be repatriated. The government recognizes that there may be cases calling for exceptional treatment. Women and children in suitable cases should be repatriated, but there no doubt will be many cases in which justice and humanity will require that they be allowed to remain.

An official body, judicial in character, will be set up to deal with claims for exemption, and as soon as the military and naval authorities have provided the necessary accommodations, those who have not secured exemption will be interned. In the case of naturalized aliens, who in law are British subjects, numbering about 8000, the *prima facie* presumption should be the other way, but exceptional cases established to the satisfaction of the advising body will be specially dealt with. There must be powers of internment in cases of proved necessity or danger.

It will be seen from the Prime Minister's announcement that naturalized British subjects of enemy origin were also to be subjected, in exceptional cases, to internment. In accordance with this announcement, an Order in Council was issued in June empowering the Home Secretary to intern *any person*, when, in view of his "hostile origin or association, it seemed expedient to do so for the public safety." Under this order British subjects of hostile origin or association could be arrested and interned in detention camps without due process of law and without the benefit of the writ of *habeas corpus*, and many were in fact so arrested and imprisoned. There was some protest against the validity of the order,²⁹ but it was sustained by a decision of the Court of Appeal in Zadig's Case.³⁰

In accordance with the announcement of the Prime Minister on May 13, practically the entire enemy population, as well as the majority of naturalized British subjects of enemy origin, including also several

²⁹ See the criticism in the *London Solicitors Journal and Weekly Reporter*, Vol. 60, p. 233, and the *London Weekly Times* of July 18, 1916.

³⁰ A. C. 260 (1917). Lord Dunfermline dissented in a long opinion. The *London Times* severely criticized this decision. The decision is also criticized by the *Law Quarterly Review* of July, 1917, p. 205.

thousand friendly aliens, were arrested and sent to concentration camps in various parts of England and in the Isle of Man. It was stated in the House of Commons on December 14, 1915, that the number of enemy aliens then interned amounted to 45,749. Of these, 32,274 were civilians and 13,475 were described as "naval and military men."³¹ Complaint was made in Parliament as late as February, 1917, however, that 4294 enemy aliens, including 287 men of military age, were still uninterned and that Germans were still carrying on business in London.³² Exemptions were granted in exceptional cases, a special internment committee having been appointed to pass upon applications from persons who for one reason or another claimed that they were entitled to be left at liberty.³³ Many persons who were entitled to be repatriated preferred to be interned in concentration camps rather than be sent back to their native country where, in view of their long absence, they would have been virtual strangers and without means of support. Others preferred internment to being left at large in England where they would be exposed to mob outbreaks and maltreatment, against which the local authorities were often powerless to protect them, especially in the case of those who lived in isolated places. So far as possible, work was provided at the camps for those desiring it; tools, materials, and instructors in the handicrafts were furnished, educational

³¹ Sir Herbert Samuel stated in the House of Commons in July, 1916, that at the outbreak of the war there were about 75,000 Germans and Austro-Hungarians living in England. At the time of his statement, all but 22,000, he said, had either been interned or repatriated. Of these, 10,000 were women, 4000 were friendly aliens, and 1500 were aged people, leaving 6500 to whom exemptions had been granted. *London Weekly Times*, July 7, 1916. According to a London press dispatch of November, 1916, there were then 32,000 German civilians interned in England, 23,000 of whom were in the Isle of Man camp.

³² *London Weekly Times*, February 23, 1917.

³³ Sir John Simon, speaking near the end of July, 1915, of the work of this committee, stated that it had received 14,117 applications for exemption from internment. These came mostly from Poles, Czechs, Italians and Alsations. In view of the somewhat lenient treatment accorded to British subjects by the Austro-Hungarian Government, the committee was disposed to show special consideration to the subjects of that country, and particularly to the above mentioned races, since their sympathies were understood to be more or less on the side of the Entente Allies. Sir John stated that the applications of more than 6000 such persons had been granted, and that most of them had been repatriated. *Solicitors Journal and Weekly Reporter*, July 31, 1915, p. 672.

classes were organized, libraries established, and the like. According to the reports of representatives of the American Embassy who inspected the camps from time to time, the civilian prisoners were well treated and were probably better off than they would have been had they been left scattered over the country, where they would have been exposed to ill-treatment.

Nevertheless, the German Government protested strongly against the policy of wholesale internment as unprecedented, harsh, and unnecessary. In a dispatch of November 8, 1915, to the American Ambassador in London, Mr. Gerard voiced the protest of the German Government. It admitted, he said, the right of the British Government to arrest German subjects who were suspected of espionage, but that great popular resentment had been aroused by the reports of the arrests of other Germans.³⁴ In a White Book issued by the German Foreign Office in 1915,³⁵ the German Government complained of the rigorous treatment to which its nationals in England, France, and Russia had been subjected in respect to their rights of person and property, particularly the closing of the courts, thereby making it impossible for them to enforce their legal rights, the policy of wholesale internment, the sequestration of German property, the attacks of mobs, etc.³⁶ The Austro-Hungarian Government made similar complaints.³⁷

FRENCH POLICY

The problem which confronted the Government of France at the outbreak of the war was, by reason of the large number of enemy aliens in the national territory and the geographical proximity of the country to Germany, even more serious than that which faced the

³⁴ Correspondence between His Majesty's Government and the United States Ambassador Respecting the Release of Interned Civilians. Misc. No. 8 (1915) [Cd. 7857], p. 19.

³⁵ Entitled, *Ausnahmegesetze gegen deutschen Private Recht in England Frankreich und Russland* (Carl Heyman's Verlag, Berlin, 1915), especially pp. 193 ff.

³⁶ The German White Book complained especially of harsh and cruel treatment which Germans in the Cameroons are alleged to have received at the hands of the British.

³⁷ See the Red Book entitled, "Collection of Evidence Respecting Violations of the Law of Nations by the Countries at War with Austria-Hungary."

British Government. In addition to the large number of permanent residents of enemy nationality who had lived in the country for many years and were engaged in business or the practice of professions, there were thousands of German and Austrian tourists who were caught there by the suddenness of the outbreak of the war. The condition in which many found themselves was almost pathetic. Without money, without clothing except such as they wore at the time, with the hotels and lodging houses closed to them, with no place to sleep except in the parks and public squares, thousands, exhausted from long journeys and fruitless searches for lodgings, terrified at the prospect of being arrested as spies, betook themselves to the American Embassy to beg for food, advice, and protection.³⁸ The embassy rendered them assistance in many ways. It gave them information regarding local police regulations; it found lodgings for them in school houses and other public buildings, with the permission of the French Government; and provided them with money to meet temporary and urgent needs.

During the first days of the war there was some wrecking of German shops in certain quarters of Paris, especially of milk depots, some windows were broken and crockery dashed to pieces, and account books scattered in the streets, but the outbreaks were not general or serious.³⁹

On August 2, 1914, when the outbreak of war with Germany was imminent, the French Government gave notice that all foreigners might leave France before the end of the first day of mobilization. On the same day a decree was issued commanding all persons of foreign nationality, without distinction as to age, sex, or nationality, to make known their identity to the *commissariat* of police at the *mairie* or to an administrator at their place of residence. The same decree required all German and Austro-Hungarian subjects to evacuate the region of the

³⁸ Eric Fisher Wood, *The Note Book of an Attaché* pp. 2-8. For a French view of the German spy system in France see an article by Georges Prade in the *London Weekly Times* of May 19, 1916.

³⁹ Wood, *op. cit.*, pp. 6 ff. and 33 ff. There is a deposition in the Austro-Hungarian Red Book, p. 30, which alleges that *all* German and Austrian shops in Paris were wrecked, but I know from personal knowledge that the statement is entirely without foundation.

northwest, as well as a part of the southwest, including also the fortified districts embracing Paris and Lyons, and to retire to certain places in the west where work, if possible, would be provided for them. Eventually they would either be allowed to leave the country or authorized to continue their residence. In the latter event they would be furnished with a *permis de séjour* but would not be allowed to change their places of residence without a safe-conduct establishing their identity.⁴⁰

Natives of Alsace-Lorraine, not naturalized as French citizens but members of families long established in the country, whose origin and sentiments were known, as well as families of which at least one member had enlisted in the Foreign Legion, were allowed to remain with full liberty of action.⁴¹ By a decree of the same date the territories of Belfort and Algeria were declared to be in a state of siege. The measures requiring the evacuation of the regions mentioned were deemed necessary on account of the rapid advance of the German armies and the certainty that those regions would soon become the theater of actual warfare.

By a decree of August 3 the police authorities of the frontier and maritime departments were instructed not to permit any person who was not provided with a passport to leave France, this with a view of preventing French citizens from evading their military duties, and also to prevent the departure of enemy subjects for the purpose of joining the colors of their own country.⁴² Until that date Germans and Austro-Hungarians were free to leave France without restriction, and in spite of the briefness of the period allowed and the difficulties of transportation due to the use of the railways by the French Govern-

⁴⁰ Permits *de séjour* to reside at their homes were granted very sparingly, the recipients being for the most part foreigners who had sons in the French army or old men who had lived in France for many years and whose ties with the fatherland had been broken by long absence. The Minister of the Interior stated in the Senate, on March 23, 1916, that not more than 500 permits of the kind had been issued to enemy aliens in Paris and that the number granted in the provinces was very small.

⁴¹ Text of the decree in Dalloz, *Guerre de 1914*, Vol. I, p. 19; *Législation de la Guerre*, Vol. I, pp. 13-14; Clunet, 1915, pp. 95-96; and *Rev. Gén. de Droit Int. Pub.*, 1915, pp. 7-8.

⁴² Valéry, *De la Condition en France des Ressortissants des Puissances Ennemis*, *Rev. Gén. de Droit Int. Pub.*, 1916, p. 356.

ment for mobilization of its armies, a considerable number succeeded in getting away. The greater number, however, either preferred to remain or were compelled to do so on account of the difficulties mentioned. All who remained were from the beginning subjected to a rigorous régime of surveillance for the purpose of preventing espionage and other acts calculated to compromise the national security.⁴³

In consequence of the more serious character of the enemy alien problem in France as compared with that of England, owing mainly to the proximity of France to Germany and the rapid invasion of the country by the Germans, the French Government considered that the public safety did not permit the enemy alien population to be left at large, as was done in England for some eight months after the beginning of the war. In the early days of the war, therefore, the greater part of the enemy alien population, particularly that of Paris, was removed to concentration camps located in various parts of France, mostly in the western departments behind a line extending from Dunkirk to Nice.⁴⁴ The persons so interned were divided into two groups: first, natives of Alsace-Lorraine, Czechs, Greeks, Poles and Armenians; and second, Germans, Austro-Hungarians, Ottomans and Bulgarians. As in England, enemy aliens belonging to the first group were regarded as being the unwilling subjects of their respective governments, whose sympathies were assumed to be largely on the side of the Entente Allies. In consequence they were separated from other interned enemy aliens and allowed a relatively larger degree of freedom, such as the privilege of spending the daytime away from the camps to which

⁴³ Valéry, article cited, p. 359.

⁴⁴ The original order provided for twelve camps, but the number was increased from time to time, until there were fifty-two in the latter part of the year 1915. Clunet, 1916, p. 156. The Minister of the Interior stated, in December, 1915 (*Journal des Débats*, Dec. 12), that the number of German and Austro-Hungarian subjects then interned in concentration camps was about 45,000. He also stated that the number of aliens who had been "chased" from France since the outbreak of the war was 4700; the number of arrests on the charge of espionage was 1125; the number of persons condemned to death by the councils of war was 55; the number condemned to forced labor was 34; to *réclusion* 14; to imprisonment 29. Aside from the condemnations by the councils of war, there were a considerable number of condemnations by the judicial courts.

they were attached.⁴⁵ Those in the second category, however, were allowed no such privileges and were kept under a régime of strict surveillance.⁴⁶

Owing to the fact that the disproportion between the enemy alien populations of Germany and France was less than that between England and Germany, and also because males of military age of both France and Germany were liable to compulsory military service, the difficulties of reaching an agreement in respect to the exchange of certain classes were less serious. As early as October, 1914, therefore, an agreement was reached for the reciprocal repatriation of all males, except those between the ages of sixteen and sixty, and of all women regardless of age. Subsequently a new agreement was entered into for the repatriation of all males under seventeen and over fifty-five and also of males between those ages who were incapacitated for military service by reason of their affliction with any one of twenty specified diseases or infirmities.⁴⁷ A similar agreement was entered into between the French and Austro-Hungarian Governments.⁴⁸

In France, as in the other belligerent countries, popular hostility towards the enemy manifested itself in a variety of forms. Generally in all of them persons of enemy nationality were deprived of all titles, honors, or dignities which had been conferred upon them by the governments with which they were at war, and even scientists were expelled

⁴⁵ Enemy aliens of this class were accorded specially favorable treatment in other respects. Thus, they were allowed the benefit of the *moratorium* and were granted permits *de séjour* more freely than were other enemy aliens. Moreover, the measures in respect to sequestration were enforced against them with less rigor. In these respects, also, Bulgarians and Ottomans not actively hostile appear to have been treated with more liberality than were Germans and Austro-Hungarians. See Clunet, 1915, p. 1091; and 1916, pp. 267 and 1634.

⁴⁶ Valéry, p. 362. Regarding the special leniency accorded to enemy aliens in the first group, see also Clunet, 1915, pp. 1091-3, and 1916, pp. 267, 814-16 and 1634. Conditions in a typical concentration camp (Château roux Bitry) are detailed in Clunet, 1916, pp. 478 ff.

⁴⁷ It was announced in the press dispatches from Berlin on Nov. 24, 1916, that some 20,000 German civilians then interned in France would in accordance with this agreement be released and allowed to return to Germany. The number of Frenchmen in Germany who were repatriated in pursuance of the arrangement was, however, considerably smaller.

⁴⁸ Text in Clunet, 1916, p. 515.

from academies and learned societies. By a French decree of November 17, 1914, all German subjects (except residents of Alsace-Lorraine who were of French origin) who had received appointments in the Legion of Honor were dismissed as an act of reprisal against the Germans for various acts of barbarity and especially for their destruction of historic monuments.⁴⁹ As an answer to the manifesto of the ninety-three German intellectuals, most of the French academies and learned societies expelled members who were the subjects of enemy Powers.

As in England, the hostility to Germans and Austro-Hungarians was not confined to those who were subjects of an enemy Power, but it was extended to persons of enemy origin who had been naturalized in France. Although the policy of denationalization was not resorted to in England (there was, however, considerable popular demand for it), in fact naturalized British subjects of enemy origin were interned, as has been stated, and otherwise subjected to the same restrictions and disabilities as those imposed upon enemy subjects. France went further, and by an Act of Parliament of April 7, 1915, provided for the denationalization of naturalized French citizens born in enemy countries.⁵⁰ The measure was made compulsory in the case of those who had borne arms against France or who had left French territory to escape military service or who had directly or indirectly given aid to the enemy. All naturalization certificates granted to the subjects of enemy countries since January 1, 1913, were to be revoked. The Minister of Justice was required to make known within three months the names of all other naturalized Frenchmen who in his judgment were deemed worthy of retaining their French nationality. The certificates of all others were to be withdrawn and the denationalization to be considered as having taken effect from the date of the outbreak of the war, without prejudice to the rights of third parties.⁵¹

⁴⁹ Text in *Législation de la Guerre*, Vol. I, p. 206, and *Rev. Gén.*, 1915, Docs. p. 38.

⁵⁰ Inhabitants of Alsace-Lorraine who were French citizens prior to 1871, or descendants of such persons, were excepted.

⁵¹ *Législation de la Guerre*, Vol. II, p. 101; Dalloz, Vol. IV, p. 114.

GERMAN POLICY

Aside from the refusal of the German Government to allow any days of grace during which enemy aliens might leave, such as were allowed in England and France, the general policy of the German Government was less drastic in the beginning than that of either the British or French Governments, for there the problem was less serious owing to the relatively small number of enemy aliens and the absence of any such extensive system of espionage as existed in England and France. Strong complaints, however, were made in England of the harsh treatment to which British subjects, especially invalids at Nauheim, Carlsbad, and other places were subjected, and of the imprisonment of others.⁵² Both British and French nationals are said to have been summarily expelled from various cities, without distinction as to age or sex, and without being allowed to take their baggage with them. For a time no general legislative or administrative measures affecting enemy aliens were adopted. They were allowed access to the courts (unless domiciled abroad), their property and business enterprises were not put under sequestration, and there was no wholesale internment of the enemy alien population in concentration camps. Very soon, however, in consequence of reports reaching Germany that large numbers of Germans were being arbitrarily arrested and im-

⁵² Satow, *Treatment of Enemy Aliens*, Publications of Grotius Society, Vol. II, p. 8. Serious charges were also made by the French Government against the German authorities for the rough and brutal treatment to which its consuls at Mannheim, Düsseldorf, Stuttgart, and other places were subjected. See the reports made by these consuls to their government, *Rev. Gén. de Droit Int. Pub.*, July-Oct., 1915, Docs. pp. 62-64 and pp. 72-73.

The Russian Government also complained of various brutalities to which its nationals in Germany were subjected. See text of a circular communicated to the press by the Russian Embassy at Paris on Jan. 13, 1915, *Rev. Gén. de Droit Int. Pub.*, July-Oct., 1915, Docs. pp. 105-109. Ambassador Gerard says all Japanese in Germany were immediately imprisoned upon the outbreak of war between the two countries. Popular hostility toward Japanese residents, he says, was very strong. No restaurant in Berlin would admit them and they had to be supplied with food by the American Embassy. When Mr. Gerard finally obtained permission for them to leave Germany, he had to send an escort with them to the Swiss frontier to protect them against attack. Gerard, *My Four Years in Germany*, Philadelphia *Public Ledger*, Sept. 9, 1917, p. 1.

prisoned in England and that the entire German population had been compelled to evacuate certain regions of France, the German Government proceeded to adopt retaliatory measures. In a dispatch of November 8, 1914, to Mr. Page,⁵³ Mr. Gerard stated that the German Government did not question the right of the British Government to arrest German subjects suspected of espionage, but that "great popular resentment has been created by the reports of the arrests of other Germans, and the German authorities could not explain or understand why German travelers who have been taken from ocean steamers should not be permitted to remain at liberty." Up to the 6th of November, the dispatch stated, considerable liberty of movement had been allowed to British subjects in Germany, and they had been allowed to carry on their business without serious interference. There appear to have been no serious outbreaks against British or French nationals in Germany and no wrecking of shops or other property.

On the latter date an order was issued by the German Government for the general internment of all British males between the ages of seventeen and fifty-five.⁵⁴ This order, it was added, "was occasioned by the pressure of public opinion, which had been still further excited by the newspaper reports of a considerable number of deaths in the concentration camps."⁵⁵ As in England and France, civilian prisoners were segregated and confined in specially improvised concentration camps, most of the British being housed in the buildings of a race course at Ruheleben near Berlin. There were, of course, the usual complaints of harsh treatment of prisoners in the German concentration

⁵³ Misc. No. 8 (1915), [Cd. 7857], p. 19.

⁵⁴ Regarding the legal status of interned civilians in Germany, the *Reichsgericht* held, in August, 1915, that they were not prisoners of war in the sense in which the term is used in the Hague Convention. They were not, therefore, liable to trial by a military tribunal. Text in Clunet, 1917, pp. 257 ff.

⁵⁵ Americans in Germany have not as yet been interned. According to an official announcement from Berlin on April 14, 1917, they were to be treated along the same lines as laid down in President Wilson's proclamation concerning the treatment of Germans in the United States. They appear to have been allowed substantially the same freedom of movement and business activity as was allowed neutral persons, except as to residence in fortified places. According to a press dispatch of April 24, 1917, however, American newspaper correspondents were notified that their presence was no longer "desirable," and they accordingly transferred their residences to neutral countries.

camps, and some of them were undoubtedly well founded.⁵⁶ The second report of the French commission of inquiry, appointed to make inquiries concerning the treatment of civil prisoners, charges that about 10,000 French men, women, and children were "carried off into the enemy's land and kept in captivity" in concentration camps, where they were insufficiently fed, subjected to the most humiliating punishments, and compelled to perform the most painful and degrading tasks. In pursuance of the exchange agreement referred to above, a large number of French civilian prisoners were repatriated, and it was on the basis of their testimony that the charges of the French commission were made.

The Russian Government also complained of the harsh and brutal treatment which Russian men, women, and children are alleged to have received at the hands of the German authorities. They were, it was charged, rounded up, carried away in dirty cattle trucks, confined in stables and pigsties, compelled to march with their hands tied behind them, and otherwise maltreated. All Russian males between the ages of eighteen and fifty were arrested as prisoners of war and were forbidden to take their effects with them to the prison camps.⁵⁷

⁵⁶ For an elaborate description of life in the Ruheleben Prison camp and the treatment received by the prisoners, see the remarkable book of Israel Cohen entitled, *The Ruheleben Prison Camp* (New York, 1917). The author was a prisoner in the camp for nineteen months. For the first two years of the war between 4000 and 5000 British subjects were confined in this camp. The number was reduced to some 3000 in 1917 in consequence of the exchange arrangement referred to above. See also the report of an investigation into the conditions of this camp by representatives of the American Embassy in a British White Paper, Misc. No. 3 (1915), [Cd. 8161].

⁵⁷ These and other charges are contained in a report issued by the Russian Government, the text of which may be found in the *Rev. Gén. de Droit. Int. Pub.*, July-Oct., 1915, Docs. pp. 105-109. See also Coleman Phillipson, *International Law and the Great War*, p. 89.

In December, 1917, an arrangement was entered into between the German and Russian Governments, through the medium of the American Minister at Stockholm and the American Ambassador at Petrograd, for the reciprocal repatriation of all women, children, and men over forty-five years of age held as civilian prisoners in both countries. It was stated that the agreement embraced about 100,000 Germans in Russia, although the number of Russians in Germany affected was inconsiderable.

AUSTRO-HUNGARIAN POLICY

Although the Austro-Hungarian Government, like that of Germany, did not accord a period of grace during which enemy aliens might leave, its policy in other respects appears to have been especially lenient.

Eric Fisher Wood, who spent some time in Austria and Hungary in the service of the American Embassy, states that the Hungarian Government did not molest alien enemies at all and that there was no wholesale internment of enemy subjects in concentration camps. British horse trainers and French governesses, he says, went tranquilly about their peaceful occupations, and English tailors advertised their services in the newspapers; their clients patronized them as formerly, and French *chefs* continued to hold their positions as before the war. This lenient treatment was accorded in spite of the fact that Hungarians had been interned by the French Government.⁵⁸

By an imperial ordinance of October 16, 1914, the Austro-Hungarian Government was authorized to take, by way of reprisal, such measures against foreigners and foreign establishments as might be necessary to prevent the furnishing of supplies to the enemy.⁵⁹ Early in the war an arrangement was entered into with the Austro-Hungarian Government by the Governments of Great Britain and France for the reciprocal repatriation of women and children, males under the age of seventeen and over fifty, and males between those ages who by reason of certain infirmities or diseases were incapacitated for military service.

⁵⁸ Notebook of an Attaché, p. 284. There is reason to believe, however, that the policy of the Austro-Hungarian Government toward Italians was much less liberal, partly, no doubt, because the very large number of Italians in Austria-Hungary, especially in the region which became the theater of hostilities, made the problem of their treatment a more serious one. The Italian Government complained that some 30,000 of its nationals were expelled from Trieste, Gorizia, and Gradisca, none of whom were allowed to return to Italy. They were, instead, loaded on freight cars, it is charged, deported to the interior, and interned in concentration camps, without distinction as to age or sex.

⁵⁹ Text in Reulos, *Manuel des Sequestrés*, pp. 444-5, and Clunet, 1916, p. 357.

STATUS OF GERMANS IN ITALY

Legally, Germans in Italy and Italians in Germany were in a situation different from that of enemy aliens in any other country at the outbreak of war. This was due to the fact that on May 21, 1915, three days before Italy declared war against Germany, the two governments, in the full expectation of the early outbreak of hostilities, concluded a special agreement concerning the treatment which each engaged to accord the subjects of the other who should be found in its territories in the event of war.⁶⁰ The treaty provided for a mutual guarantee in respect to the persons and property of the subjects of each party in the territory of the other. They were to be allowed to continue their residence without molestation, except that they might be required to reside in designated localities and subjected to police measures in case the public safety and order should require. The right of departure from the country was allowed; they were to be subject to no restrictions different from those imposed on neutral persons sojourning in the country; there was to be no sequestration of property, no confiscation of patent or other rights of this character, and no abrogation or suspension of contracts or debts.

No such treaty having been entered into between Italy and Austria-Hungary, a somewhat anomalous situation was thus created. The Italian Government had adopted rather stringent measures in its treatment of Austro-Hungarian subjects, but in virtue of the above-mentioned agreement it could not apply the same measures to German subjects.⁶¹ The favored treatment thus enjoyed by Germans as compared with that to which Austrians and Hungarians were subjected was the subject of considerable criticism, and the Bar of Milan adopted a resolution expressing the opinion that no distinction should be made between Germans and Austro-Hungarians in respect to their treatment. This view was strengthened by the alleged violation by the German Government of the Italo-Germanic agreement. It was alleged that while the Italian courts were open to Germans, the German decree of

⁶⁰ Text in Clunet, 1916, pp. 407-408.

⁶¹ Valery, *Condition des Allemands en Italie Postérieurement à la Déclaration de Guerre à l'Autriche*, Clunet, 1916, pp. 405-415.

August 7, 1914, closing the German courts to enemy aliens domiciled outside Germany, applied to *all* enemy aliens, no exception being made in the case of Italians, as the spirit of the treaty required. Moreover, it was alleged that bankers of Berlin refused to make payments to Italian creditors, and by a decree of July, 1916, Governor General Von Bissing of Belgium subjected Italians in that country to a régime of surveillance. Finally, the German Government refused to pay pensions due to Italian laborers under the German workingmen's pension laws, notwithstanding the stipulations in the treaty of May 21 that contracts would not be impaired or abrogated.⁶²

In short, Germany had treated the agreement of May 21 as a "scrap of paper." Notwithstanding the popular opposition to the special régime which the treaty established in behalf of the Germans in Italy and the alleged refusal of the German Government to abide by its stipulations, it does not appear that the Italian Government yielded to the popular demand by placing Germans and Austro-Hungarians on the same footing.⁶³

THE PORTUGUESE MEASURE OF EXPULSION

Portugal appears to have been the only country which resorted to the policy of wholesale expulsion. By a decree of April 20, 1916, all German subjects of both sexes, except males between the ages of sixteen and forty-five years, were ordered to leave the country within fifteen days. The latter were interned in a concentration camp on the Island of Terceira. Persons born in Portugal of German fathers were also treated as enemy subjects. Violation of the decree of expulsion was punishable by three years' imprisonment in a fortress in case of men, and two years' correctional imprisonment in case of women.⁶⁴

⁶² Valéry, *La Condition Juridique des Allemands en Italie depuis la Déclaration de Guerre à l'Autriche jusqu'à la Déclaration de Guerre à l'Allemagne et postérieurement à celle-ci*, Clunet, 1917, pp. 69 ff.

⁶³ In consequence of the alleged refusal of the German Government to allow Italians access to the German courts, the Bar of Milan addressed a circular to the Bar of the rest of Italy expressing the opinion that it was the duty of all Italian lawyers to refrain from taking cases in which Germans were plaintiffs. Text of the circular in Clunet, 1916, pp. 413 ff.

⁶⁴ Text of the decree in Clunet, 1916, pp. 1424 ff.; see also *ibid.*, pp. 1074 and 1468.

JAPANESE POLICY

The Japanese treatment of enemy aliens is said to have been exceptionally liberal. Although all Japanese subjects in Germany were arrested at the outbreak of war between the two countries and were treated with great indignity, the Japanese Government did not resort to such measures, but treated Germans as it did foreigners of neutral nationality. There were no outbreaks against Germans and no manifestations of hostility. Not even German teachers or tutors were discharged. No restrictions were placed upon their freedom of movement, and even German reservists were allowed to return to Germany on Japanese ships. German business men continued their business as before the war, without molestation or restriction, and agents of German houses regularly furnished their Japanese customers with goods.⁶⁵

JAMES W. GARNER.

⁶⁵ Clunet, 1916, pp. 1712 ff.

English and French subjects in Japan are said to have protested against the exceptional liberality with which the Germans were treated, but the Japanese Government does not appear to have modified its policy.